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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,693	11/14/2000	Robert A. Gonsalves	RG-2	5886
7590 11/19/2003				
Richard Menelly 18 Saco Rd Alfred, ME 04002				
EXAMINER LEE, PATRICK J				
ART UNIT		PAPER NUMBER		
2878				

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N</b>	<b>Applicant(s)</b> <i>all</i>	
	09/905,693	GONSALVES, ROBERT A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Patrick J. Lee	2878	

-- The MAILING DATE of this communication appears on the cover sheet with correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 1, 2 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)      4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_      6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to amendment filed October 2<sup>nd</sup>, 2003.

### ***Specification***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.
3. The disclosure is objected to because of the following informalities:  
In line 25 of page 3, the extraneous period should be removed.  
Appropriate correction is required.
4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Objections***

5. Claims 1-2 & 6 are objected to because of the following informalities:  
Based on the amended claims clean version, a period is required after "aberrations" in the last line of claim 1, after "equation" in the last line of claim 2, and after "equation" in the last line of claim 6. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. With respect to claims 1 & 4, the amendments required that the adaptive optic cancel aberrations to provide *solely adapted in-focus images*. This requirement has not been shown in the specification nor in the remarks sent in by the applicant. As a result, independent claims 1 & 4 and dependent claims 2-3 & 5-6 have been rejected.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1 & 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Love et al 6,107,617.

This rejection does not consider the new matter in claims 1 and 4 as described in the discussion of the 35 U.S.C. 112, 1<sup>st</sup> paragraph rejections.

With respect to claims 1 & 4, Love et al disclose an optical correction system for use in telescopes. The system comprises of a telescope (2) that receives images from an object scene (1), a liquid crystal spatial light modulator (LC SLM) (4) and its corresponding driver (10), a CCD camera as a detector array, and a data processor as a sequential diversity processor. LC SLM (4) is illustrated to be within optical proximity to a lens and reflecting elements that make up the telescope (2). A CCD camera as a detector array receives images from the LC SLM (4) and sends those images as electronic signals to a data processor as a part of computer (8) (see column 3 lines 43-44). The data processor calculates aberration estimates and sends a signal to controller driver (10), which then controls LC SLM (4) in order to correct the beam (see column 4, lines 1-6).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-3 & 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Love et al 6,107,617.

With respect to claims 2 & 5, Love et al disclose the system as described in the discussion of claims 1 & 4. While Love et al does not disclose the processor system calculating a sequence of diversities, such calculations are known and would have been

obvious to program into the processor. Modifying Love et al accordingly would have allowed for compensation of errors or aberrations within the wavefront.

With respect to claims 3 & 6, Love et al disclose the controller driver (10) sending signals to LC SLM (4), but does not explicitly disclose that the signals are determined according to a predetermined control equation. However, such control is known and would have been obvious in order to effectively capture the images.

### ***Response to Arguments***

12. Applicant's arguments filed 10/2/2003 have been fully considered but they are not persuasive. There is no support in the arguments or in the specification for the use of the adaptive optic device to provide *solely adapted in-focus images*.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wirth et al 5,146,073 disclose a linear wavefront sensor camera.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. Lee whose telephone number is (703) 305-3871. The examiner can normally be reached on Monday through Friday, 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (703) 308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-9558.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Patrick J. Lee  
Examiner  
Art Unit 2878

PJL  
November 14<sup>th</sup>, 2003

  
**DAVID PORTA**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**